



## **COMMUNITY DEVELOPMENT DEPARTMENT**

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### **PLANNING COMMISSION MEETING MINUTES**

#### **SPECIAL MEETING**

**MARCH 21, 2006**

**PRESENT:** Acevedo, Koepp-Baker, Benich, Davenport, Lyle, Mueller

**ABSENT:** Escobar

**LATE:** None

**STAFF:** Community Development Director (CDD) Molloy Previsich, Planning Manager (PM) Rowe, Senior Planner (SP) Linder, Senior Civil Engineer (SCE) Creer, and Minutes Clerk Johnson

Chair Lyle called the meeting to order at 7:03 p.m., as he led the flag salute.

#### **DECLARATION OF POSTING OF AGENDA**

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Chair Lyle opened the floor to public comment for items not appearing on the agenda.

Commissioner Benich called attention to 'a wrong being forced onto City businesses by CALTRANS': At the new In-N-Out Burger a chain link fence has been installed at the direction of CALTRANS. Both the business and City staff have been surprised by such action. Commissioner Benich said he understood this practice is becoming wide spread and has a two-fold ramification:

- (unanticipated) expense to local businesses
- a State agency acting to enforce policies in direct conflict to a local (City) General Plan

Commissioner Benich relayed that City staff has reported this to be happening in other areas as well. Commissioner Benich said the basis of his concern is that such action is against the General Plan and would like to emphasize the need for some type of 'action letter'.

With no members of the audience indicating a wish to address matters not on the agenda, the time for public comment was closed.

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### **PUBLIC HEARING:**

#### **1) CITY OF M.H. UNINCORPORATED ISLANDS: PARCEL PREZONINGS & ANNEXATIONS**

The City of Morgan Hill is proposing to prezone and annex parcels that are within “unincorporated islands” as defined by the Santa Clara County Local Agency Formation Commission (LAFCO). These are properties that are located within the City’s Sphere of Influence and are already within the city’s Urban Service Area (USA), and are substantially surrounded by properties located within the city limits of Morgan Hill. The prezonings and annexations are consistent with the city’s General Plan and the GP Master EIR will be used; except that for Island #8 a Mitigated Negative Declaration adopted in October 2005 will be used.

**THE ISLANDS ANNEXATION PROJECT CONSISTS OF 17 APPLICATION AREAS. THE PLANNING COMMISSION WILL BE MAKING RECOMMENDATIONS TO THE CITY COUNCIL REGARDING EACH OF THE PROPOSED 11 PREZONINGS. THE CITY COUNCIL PUBLIC HEARING REGARDING PREZONINGS AND THE FIRST ANNEXATION HEARING IS SCHEDULED FOR APRIL 12, 2006 AT 7:00 PM IN THE CITY COUNCIL CHAMBERS.**

CDD Molloy Previsich presented the staff report by providing an overall ‘pre-statement’ of the meeting for the evening. She explained Morgan Hill had been encouraged by LAFCO to incorporate islands of unincorporated areas within the City. CDD Molloy Previsich advised that The State and LAFCO have determined that a more efficient provision of public services would be available through this mechanism and all cities were encouraged to begin the process of incorporating islands of unincorporated areas within the municipalities. The City Council had appointed a subcommittee of Council members which recommended this as a proper procedure, and the City Council directed the Community Development Department to make plans for completion of the project.

CDD Molloy Previsich further advised that, as provided by the guidelines, no elections would be conducted for the affected property owners, but public hearings would be held; however, no formal protest procedure is available. CDD Molloy Previsich noted that LAFCO and the County of Santa Clara were acting as facilitators and had waived fees – including the fees for the City of Morgan Hill, which has filed the pre-zone and annexation applications on its’ own behalf, with no cost to property owners. CDD Molloy Previsich said the islands under discussion at this meeting are already included in the Urban Service Area (USA) and are substantially surrounded by City limits. Explaining the Environmental Assessment had already been completed as a Negative Declaration for Island #8 and the General Plan ‘Master EIR’ for all other islands and therefore compliance with CEQA has been attained. CDD Molloy Previsich went on to give details of the General Plan Master EIR and how the Island Annexation Project was found to be in agreement with the scope of the EIR.

CDD Molloy Previsich advised that a question might come up as to issues with *code compliance*. She clarified how this annexation process is different from the usual policy of requiring all code issues to be cleared up prior to

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annexation, as there is an overriding policy of getting the islands into the City. While there may seem some downsides to annexing certain of the islands, having those properties within the City will provide better opportunities for property improvement. If those properties are not in compliance with the current Municipal Codes, they will be grandfathered in,” CDD Molloy Previsich said, giving setbacks as an example. Code compliance will occur in response to complaints or awareness of life-safety issues.

Public notice had been sent to each of the property owners about three weeks in advance of this hearing. City Officials recognize the notice had a ‘fairly short timeframe’ and no “pre-process” workshops, but this public hearing will allow the City to hear from the property owners, emphasizing that the property owners were not applicants and the City was acting on behalf of the owners. Continuing, CDD Molloy Previsich advised the Commissioners and audience that many of the properties had already been pre-zoned and the purpose of this hearing was to formulate recommendations to the City Council regarding the appropriateness of zoning of the properties under discussion.

Commissioner Benich noticed that in reading through the presented materials, LAFCO had identified 17 properties. “Why are there only 11 being considered at this meeting?” he asked. CDD Molloy Previsich advised that currently one property had been withdrawn from the presented list, and the others were already pre-zoned.

CDD Molloy Previsich noted that the change to pre-zoning for Island #14 is being withdrawn. There is existing pre-zoning which is appropriate and so this property was withdrawn from consideration and a recommendation made to retain it in the existing pre-zone. She reminded the public hearing would be opened for comments on all the listed properties.

Discussion followed when Commissioner Koepp-Baker questioned the procedures for utility (sewer/water) to an existing parcel with a house?

- no requirement for hook up {unless they want to do so}
- no time limit
- if the ‘grandfathered’ dwelling is upgraded more than 50%, hookup must be completed. (PM Rowe advised that non-conforming units can be considered under the Code even if the upgrade exceeds more than 50% - It may be ok, as residential differs from business requirements.)

Chair Lyle said that the Code Enforcement issues showed advantage to residents, and then asked, “What is the fiscal benefit to the City by annexation action?” CDD Molloy Previsich explained the total assessed valuation of the currently unincorporated areas (\$120 million) and told of the potential property tax to be received by the City (about \$120,000).

Chair Lyle asked the total number of homes in the areas of discussion. CDD Molloy Previsich responded, “About 200 homes in Holiday Lakes Estates, with El Dorado having 46 plus about 24 others.” Commissioner Mueller

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reminded that it is necessary to establish population numbers as part of Measure C, and asked how that will be dealt with? CDD Molloy Previsich advised, "Staff plans to accomplish that by using the DOF average number of persons per households."

CDD Molloy Previsich further advised Holiday Lakes Estates is not included in this group. Many lots in the unincorporated section of Holiday Lakes Estates are on septic system, which is of concern to Environmental Health. She reminded that LAFCO had allowed some out-of-area service provision, but stopped that practice in favor of a comprehensive solution and work toward incorporation of the area. CDD Molloy Previsich spoke on the work being *done* on the sewer assessment district feasibility study. She also advised that the City Council had adopted a resolution stating that if Holiday Lakes Estates residents agree to assessment, the subdivision will be annexed.

*Because of the large number of audience participants interested in specific items listed on the agenda, Chair Lyle suggested to hear the items 'by popular vote of the public in attendance', with which the Commissioners concurred.*

*Therefore, the order of the agenda was changed as indicated.*

**ZA--05-18: City of Morgan Hill-East of Hale:** Island #2 is a 3.59-acre area containing 5 parcels, located at Hale Avenue and Campoli Drive near the northern terminus of Del Monte Avenue. The zoning amendment consists of rezoning APNs 764-23-017 and 764-24-001, -003, -004 and -005 to the "Single-Family R-1/7,000" zoning district, consistent with the existing City General Plan designation of Single-Family Medium 3-5 units per acre.

CDD Molloy Previsich noted there were some inconsistencies of acreages under this agenda item: the 'island' consists of five parcels with the City's General Plan indicating Single-Family Residential for the lots. She described the surrounding zoning and uses and told the Commissioners the aim is to have good transitional density for this area.

Chair Lyle opened the public hearing.

Mike and Sal Hernandez, 18660 Hale Ave. were present and represented by their son who told Commissioners the driveway where his parents had lived for many years was not finished and because of a new landowner in the area, his parents ingress was much more difficult. Mr. Hernandez said that the new neighbors had cut off the drive and asked, "Will the City complete the driveway?" as he explained the location of the house (it faces to El Monte). He said because the new resident had closed the long-utilized drive, his parents had to exit to Hale. "We just want to have our driveway back." Responding to a question from Commissioner Mueller regarding easement(s) to the public street(s), Mr. Hernandez said his Father gave land for the public right-of-way to either the County or the City.

Teri Duffy, 185 Campoli Dr., spoke on concerns of continuing the use of the

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septic and well on the property at 185 Campoli Dr., which Ms. Duffy has owned for several years. Additionally Mrs. Duffy said, "There are no other houses around," as she explained that she felt she might suffer from restrictive setbacks. Ms. Duffy detailed that her existing structures have been in place for many years and told the Commissioners that she wanted to retain those structures. The 'grandfather' process was clarified for Ms. Duffy. Ms. Duffy expressed concern with regard to putting the 'road across the creek', noting the location of the road in relation to the structures, and saying that the biggest building is where the road might be placed.

With no others present to address the matter, the public hearing was closed.

SCE Creer said, "For all intents and purposes the street is a 'paper street'." He said there were not plans for Campoli to connect with Hale. As to any development, SCE Creer said adjoining properties with easement issues would require actions by adjoining properties and the City would not be involved. Responding to questions, SCE Creer reiterated that Campoli is largely a paper street.

CDD Molloy Previsich was asked about code enforcement in the area. "We respond to complaints, life-safety issues, and also monitor building without permits." Commissioner Mueller said the Commissioners could understand the consternation of property owners with existing structures, many of which predate current purchasers of the property, and so there may be buildings that did not need permits at the time of construction. CDD Molloy Previsich said if the need arose, the staff would do some research into the matter. Commissioner Benich clarified, If no one complains, things will stay the same, the City will not go 'hunting'."

Commissioner Acevedo reminded the action under discussion at this meeting was limited to looking into pre-zoning the properties. "We're not talking annexation now. If at a later time, annexation is begun, the zoning overlays will have been established." CDD Molloy Previsich agreed, saying "The City Council can annex and the role of the Planning Commission is to recommend appropriate zoning."

For the audience, Commissioner Acevedo reiterated, annexation is not going to happen tonight – that is very definite.

Returning to the issue of sewer and water, the Commissioners and staff stressed, "If a property is on well and septic it is 'ok' for now; and no one will be immediately forced to hook up to the City's utility system."

As to the road problems Mr. Hernandez spoke of, SCE Creer said it sounds like something may have been done in the County about the access. He added that if the property owners have been using the road for years, there may be some sort of prescriptive rights issue between the property owners at this time. It was strongly emphasized those issues are private and not a responsibility of the City. Regarding the matter, PM Rowe told of a 'pie shaped lot' with egress along Sanchez. Commissioner Mueller said it seemed a rule about a 'pseudo right of way'.

**COMMISSIONER MUELLER OFFERED A MOTION, RECOMMENDING APPROVAL OF PRE-ZONE OF 1.85 ACRES, FROM COUNTY OF SANTA CLARA EXCLUSIVE AGRICULTURE ZONING A-20 AND AGRICULTURE A-sr TO SINGLE-FAMILY R-1/7,000 FOR APNS 764-23-017 AND 764-24-001, -003, -004 AND -005 FOR APPLICATION, ZA--05-18: CITY OF MORGAN HILL-EAST OF HALE. COMMISSIONER BENICH SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ESCOBAR WAS ABSENT.**

**ZA-05-19: City of Morgan Hill-Teresa & Sabini:** Island #3 is a 17.86-acre area containing 5 parcels located at Llagas Road/Teresa Lane and Sabini Court. The zoning amendment consists of rezoning APNs 773-32-010, -011, -012, -013 and -014 to the "Residential Estate RE-100,000" zoning district, consistent with the existing City General Plan designation of Residential Estate 0-1 units per acre.

CDD Molloy Previsich noted that the island is recommended for pre-zoning to RE-100,000 which reflects existing parcel sizes, but RE-40,000 is also possible and is also consistent with the existing General Plan.

Chair Lyle opened the public hearing.

Stephen Bolaris, 18200 Sabini Ct., addressed the Commissioners regarding:

- just recently being informed of the actions before the Commissioners at this meeting
- neighbors who were ill and unable to attend due to travel
- City water and sewer
- omission of Rose Orchard Ct. from the proposal
- questioning of benefit to residents to switch from County to City
- requests recommendation for R-1/40,000
- street being only 1.5 lanes wide (explanation of easements)
- questions of a public process for a 'Court-only oversight'

With no others present to address the matter, the public hearing was closed.

CDD Molloy Previsich explained that the 'island annexations' had come to the forefront at the 'strong urging' of LAFCO and that the matter had been talked about a year ago and included in the Planning Department work plan, with staff work started fairly recently. CDD Molloy Previsich acknowledged this is less of an island than the others under discussion at this meeting being located at the north edge of the City. CDD Molloy Previsich commented that because of an odd City limit boundary, LAFCO had been able to identify sixteen unincorporated islands under language identified by State law. "Some are less compelling than others and this is one we know to be residential estate which might be appropriate to leave in the County if the property owners are not enthusiastic about inclusion into the City. However, the properly could be developed at higher density," she said. CDD Molloy

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Previsich advised the Commissioners staff had heard from one other property owner who seemed to convey: 'there is a need to do something'.

Commissioner Benich led discussion of fire and police service in the area, with Commissioner Mueller explaining the priority of responders of fire under the mutual aid agreements.

CDD Molloy Previsich talked about Measure C and advised that if the lots were to be pre-zoned to RE-40,000 and the owners wanted to increase it would be accomplished through simple lot splits, which would not require competition under Measure C.

Commissioner Acevedo said, "Looking at the surrounding property, it seems reasonable for zoning to be R-1/40,000."

Commissioner Davenport agreed with Commissioner Acevedo and reiterated the Commissioners were only dealing with the pre-zone. "If the owners oppose annexation, they must see the City Council," he said.

Commissioner Mueller added, "If we do go to R-1/40,000, the owners could subdivide and build one more house under the exemption, but not get to the third house."

Others questioned the accuracy of that notion and Chair Lyle was requested to reopen the public hearing, which he did.

Mr. Bolaris spoke on the creek, which he told the Commissioners 'runs down and across the corner of his property; saying the location could probably support closer to two houses to each parcel, providing the split occurred.

Commissioner Koepp-Baker clarified that Mr. Bolaris was asking for the R-1/40,000 so he would not need to come back to the Commission in the future.

The public hearing was closed.

The Commissioners and staff discussed:

- if the property is pre-zoned to R-1/40,000, there would presumably be development potential, which is not clear now
- collaborative agreement with the Water District, which might not recognize the 'creek'
- propose pre-zoning would establish higher density expectations than presently exist
- practicality if a developer wanted 2 - 3 parcels for development

**COMMISSIONER ACEVEDO OFFERED A MOTION RECOMMENDING APPROVAL OF PRE-ZONING OF 17.62 ACRES, FROM COUNTY HILLSIDE HS TO RESIDENTIAL DISTRICT 1 (R-1) 40,000 OF APNS 773-32-010, -011, -012, -013 AND -014, WITH COMMISSIONER DAVENPORT PROVIDING THE SECOND. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES:**

**ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE; NOES: BENICH, MUELLER; ABSTAIN: NONE; ABSENT: ESCOBAR.**

Commissioner Benich commented that only one speaker from the area did not provide sufficient data for good decision making. Commissioner Mueller said that the motion was setting development expectation with barriers not yet understood.

For the record, CDD Molloy Previsich clarified that notification had been sent to the property owners three weeks in advance of the meeting.

**ZA-05-21: City of Morgan Hill-Cochrane & Mission View:** Island #5 is a 54.92-acre area containing 3 parcels located at Cochrane Road and Mission View. The zoning amendment consists of prezoning APN 728-36-006, as well rezoning APN 728-36-011 (an adjacent 1.65-acre parcel already within the City limits located at the corner of Cochrane and Mission View), to the "Single-Family R-1/7,000" zoning district; and prezoning APNs 728-36-007 and -008 to the "Single-Family R-1/9,000" zoning district. These zonings are consistent with the existing General Plan designation of Single-Family Medium 3-5 units per acre.

CDD Molloy Previsich gave the staff report, stating that the area under discussion contains 54.92 acres, consisting of three parcels and indicated the location. She advised that an adjacent 1.65 acre parcel is already within the City limits. CDD Molloy Previsich advised of the General Plan 'feathering policy' and reiterated the recommended zoning.

Commissioner Davenport asked for clarification of the areas and definitive zoning, as well as how the increased density would be located nearer to the proposed shopping center.

Chair Lyle asked if the proposed rezone would present any problems with the Court rulings in this area? CDD Molloy Previsich responded that would not be an issue as there is no proposal to amend the General Plan.

Chair Lyle opened the public hearing.

Nat (Isaac) Abrams, P.O. Box 2067, Saratoga, told the Commissioners he had sent a letter which had been previously distributed. Mr. Abrams said he understood the transition concept, but questioned putting obstacles to what may eventually provide correct use of the property. "Is the best use of density for residential or can the City have a better use in the area? I have no problem with the R-1/7,000. However," Mr. Abrams said, "it probably is not going to remain R-1/7,000 in the long run, and you need to consider different options. The consideration is a concern of future use." Mr. Abrams told of living in Saratoga and as a developer/owner, wanting to put in Senior housing, whereupon the City objected to what was being proposed. Mr. Abrams suggested 'as reasonable' all property in R-1/7,000 near the shopping center and/or the hospital site have an expectation that would be better used, for example, as doctor's offices, not residential.

Dick Oliver, 385 Woodview Ave., #100, said he just wanted to provide the



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reminder of recalling some language in the Court order that there was some formula the City had to comply with. "If you pull out some parcels, can the City still meet that formula?" Mr. Oliver asked. "I think there may be need for staff to review it."

PM Rowe reviewed the judgment which said there should be higher density near the freeway with density adjustments in some areas. Discussion followed with regard to rezoning that the City had determined in past years that density could not be shifted.

With no one else indicating a wish to speak to the matter, the public hearing was closed.

Commissioner Bench noted he was intrigued by what Mr. Abrams had said and even though there had not been discussion about senior housing, perhaps the need for higher density also needed to be addressed.

CDD Molloy Previsich emphasized that the City's proposed project is to pre-zone the islands consistent with the existing General Plan. Changes of land use designation could be considered in the future, such as with the General Plan Update.

Chair Lyle clarified that Mr. Abrams' property was proposed to be R-1/9,000. Chair Lyle stated he had concerns about the numbers ordered by the Court. Commissioner Mueller reminded that the City had already zoned the property. Responding to a question from Chair Lyle, PM Rowe spoke on a 'density range' being established.

Commissioner Mueller stated it would be nice if one person developed all the parcels at this location, and therefore it would be beneficial for higher-density units. "I'm OK with the staff recommendations and I like the higher density with the shopping center," he said. "But I also would not preclude future higher density there.

**COMMISSIONER BENICH OFFERED A MOTION RECOMMENDING APPROVAL OF A ZONING AMENDMENT PREZONING 36.60 ACRES FROM COUNTY GENERAL USE A-1/2.5 TO SINGLE-FAMILY R-1/9,000 FOR APN 728-36-007 AND -008; PREZONING 18.30 ACRES FROM COUNTY GENERAL USE A-1/2.5 TO SINGLE-FAMILY R-1/7,000 FOR APN 728-36-006; AND REZONING 1.65 ACRES FROM SINGLE-FAMILY R-1/9,000 TO SINGLE-FAMILY R-1/7,000 FOR APN 728-36-011 AS CONTAINED IN APPLICATION ZA-05-21: CITY OF MORGAN HILL-COCHRANE & MISSION VIEW. COMMISSIONER MUELLER SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ESCOBAR WAS ABSENT.**

**ZA-05-35: City of Morgan Hill-W. Edmundson & Piazza:** Island #17 is a 12.64-acre area containing 4 parcels located along West Edmundson at

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Piazza. The zoning amendment consists of rezoning 3 of the parcels (APNs 767-21-013, -014 and -015) to remove the "Residential Planned Development" zoning overlay district, so that the parcel is rezoned to the "Single-Family R-1/9,000" zoning district, consistent with the existing City General Plan designation of Single-Family Medium – 3-5 units per acre; and changing the rezoning of APN 767-21-045 from R-2 (3,500)/RPD to a rezoning of "Single-Family R-1/9,000" zoning district, consistent with the existing City General Plan designation of Single-Family Medium - 3-5 units per acre.

CDD Molloy Previsich gave the staff report, saying this island was consistent within the current General Plan with rezoning of three of the four parcels contained therein. Staff opined the time had come for consideration of removal of the RPD overlay, but others thought differently, so the prezone could stand as exists, she said. CDD Molloy Previsich noted that as part of the process of accumulating data for this meeting, an error of map reading had occurred and the original notice erroneously indicated that all four parcels were Single-Family, whereas one is actually Multi-Family. At issue at this meeting would be discussion/decision as to retention of the RPD overlay, she said.

Chair Lyle opened the public hearing.

Mr. Oliver announced he was appearing on behalf of owners of the Multi-Family parcel in the area under discussion, and informed that the owners want the RPD overlay removed. He explained that their property was adjacent to an existing development and the property owners did not want to be tied to the other undeveloped area.

With no others wishing to address the matter, the public hearing was closed.

Commissioner Acevedo said he was in agreement with portions of the staff report which would culminate in recommendation of the removal of the RPD overlay. CDD Molloy Previsich said the properties are under multiple ownership, which warranted discussion.

Commissioner Benich clarified that the lots contain single-family dwellings, which CDD Molloy Previsich advised were 'not in good condition'.

Commissioner Mueller recapped the several advantages to having the 'whole thing' (except the Multi-Family parcel) under one RPD, including the fact that the area can be managed much better for development. He acknowledged a problem: if inside the RPD there is a plan for the whole thing when application is made for partial development, it must be well coordinated so there are definite advantages to retaining the overall RPD.

Chair Lyle said it seems to make sense to complete the road and have the other three properties developed in a coordinated way.

Commissioner Benich called attention to value in removing the Multi-Family APN 767-21-045 from the RPD. Chair Lyle and Commissioner Davenport

indicated agreement with that notion.

**COMMISSIONER BENICH OFFERED A MOTION RECOMMENDING APPROVAL OF A ZONING AMENDMENT REZONING A SINGLE 2.30-ACRE PARCEL (APN 767-21-045) LOCATED ON THE SOUTH SIDE OF WEST EDMUNDSON AVE., ACROSS THE STREET FROM COMMUNITY PARK, FROM MULTI-FAMILY MEDIUM R-2 3,500 RESIDENTIAL PLANNED DEVELOPMENT TO MULTI-FAMILY MEDIUM R-2 3,500. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; ESCOBAR WAS ABSENT.**

*The regular order of the agenda was resumed.*

**ZA-05-17: City of Morgan Hill- Tilton & Hale:** Island #1 is a 2.6-acre area containing 4 parcels, located at Tilton and Hale Avenues. The zoning amendment consists of rezoning APNs 764-09-002, -003, and -004 to the “Single-Family R-1/12,000” zoning district, consistent with the existing City General Plan designation of Single-Family Low 1-3 units per acre; and rezoning APN 764-09-015 to the “Public Facilities” zoning district, consistent with the existing City General Plan designation of Public Facilities.

CDD Molloy Previsich presented the staff report and advised the Commissioners that no persons had come forward with objections. She said this is a 2.6-acre area containing four parcels, and the rezoning is consistent with the General Plan designation.

Chair Lyle opened the public hearing.

With no persons present to address the matter, the public hearing was closed.

**COMMISSIONER ACEVEDO OFFERED A MOTION RECOMMENDING APPROVAL OF PREZONING 1.91 ACRES FROM COUNTY OF SANTA CLARA EXCLUSIVE AGRICULTURE ZONING A-20 TO SINGLE-FAMILY R-1/12,000 FOR APNS 764-09-002, 003 & 004, AND TO PF, PUBLIC FACILITIES, FOR APN 764-09-015 FOR APPLICATION ZA-05-17: CITY OF MORGAN HILL-TILTON & HALE. COMMISSIONER MUELLER PROVIDED THE SECOND TO THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

**ZA-05-22: City of Morgan Hill-Cochrane & Peet:** Island #6 is a 141.99-acre area containing 3 parcels located at Cochrane and Peet Roads. The zoning amendment consists of rezoning APNs 728-34-001 and -008 to the “Public Facilities” zoning district, consistent with the existing City General

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Plan designation of Public Facilities; and rezoning APN 728-34-009 to the “Single-Family R-1/12,000 (83 acres) and Single-Family R-1/20,000 (40 acres) zoning districts, consistent with the existing City General Plan designation of Single-Family Low 1-3 units per acre.

CDD Molloy Previsich presented the staff report and called this the ‘other island in the Cochrane Road Assessment District’. She advised that the property owners of the three parcels had been in communication with the Planning Department staff and had worked with the staff of the Water District to achieve rezoning to a Public Facilities.

Chair Lyle opened the public hearing.

Noting no one in the audience wishing to speak to the matter, Chair Lyle closed the public hearing.

The Commissioners engaged in discussion during which the following issues were addressed:

- density far too great for this area
- would provide for a community potential of 300 homes
- inconsistency with properties to the east
- traffic concerns
- road behind the property ‘difficult and unfixable’
- need for an RPD to control development
- possible reconfiguration of R-1/12,000 (with specific suggestions given for locations of the varied density)

Commissioner Mueller commented that the lots on the east side of the 141.99 acreage appear to be larger than 40,000. PM Rowe clarified that the property ran from 2.5 acres along the boundary, then to 12,000 sf., which the Commissioners termed an ‘abrupt’ change.

PM Rowe continued that if an RPD was put on as an overlay, similar to that on Diana Ct., transitions could be created, and here the R-1/12,000 could be transitioned from the larger sizes to 2.5 acres.

Commissioner Acevedo observed that the property is largely on a hill and that in the area on Coyote/Cochrane there is a downhill side which provides a lesser slope. Commissioner Acevedo said he thought that with Mission Estates coming down toward the Marionanis, it will be about the same density to Half Road and therefore the staff proposal seemed logical.

CDD Molloy Previsich clarified the General Plan designation.

Chair Lyle persisted as he argued for lesser density on the site.

Commissioner Acevedo argued for higher density because of the proposed elementary school.

Commissioner Benich expressed concern that the area is ‘right in front of the

dam' and there could be flooding if a problem surfaced at the dam site.

Chair Lyle polled the Commissioners regarding preference for the matter with the following result:

- Commissioner Acevedo - agreed with staff report; said to retain recommendation
- Commissioner Koepp-Baker: concern of very high density
- Commissioner Mueller: 'pretty dense' compared to surrounding areas; needs RPD overlay (essential); R-1/12,000 seems rather dense for transition area
- Chair Lyle: suggestion of dividing residential portion of site into 'thirds, with the top RE-40,000, middle third R-1/20,000 and lower third R-1/12,000
- Commissioner Benich: site too dense as recommended in the staff report
- Commissioner Davenport: concerns regarding road issues (all the Commissioners entered discussion)

CDD Molloy Previsich suggested a possible configuration for three zonings on the property. Commissioners discussed other possible configurations for 'splitting' to facilitate better zoning for density and transition areas. A general consensus was reached to direct Staff to redraw the lines to accommodate three zonings discussed (R-1/40,000, R-1/20,000, and R-1/12,000), all with the RPD overlay, and with a preference being indicated to having the smaller lots located nearer the Water District property and larger parcels to the outside to achieve desirable 'feathering'.

**COMMISSIONERS MUELLER/BENICH OFFERED A MOTION RECOMMENDING APPROVAL OF PREZONING PORTIONS OF THE SITE FROM COUNTY EXCLUSIVE AGRICULTURE A-20 TO (1) PUBLIC FACILITIES PF; (2) SINGLE-FAMILY R-1/12,000 AND SINGLE-FAMILY R-1/20,000 AND RESIDENTIAL ESTATE RE-40,000 FOR APNS 728-34-001, -008, AND -009. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ESCOBAR WAS ABSENT.**

The Planning Staff was directed to make determination of acreage for 'lines drawn' for the three categories as indicated in the discussion.

**ZA-05-23: City of Morgan Hill-Tennant & Railroad:** Island #13 is a 2.87-acre area containing 2 parcels located at Tennant and the UPRR tracks. The zoning amendment consists of prezoning APN 817-06-053 to the "ML Light Industrial" zoning district, consistent with the existing City General Plan designation of Industrial; and prezoning APN 817-06-054 to the "PF Public Facilities" zoning district, consistent with its use as a transportation facility.

CDD Molloy Previsich gave the staff report, saying that at the present time,

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no zoning classifications were in place for UPRR parcels. CDD Molloy Previsich noted her sense that "If there is a parcel and there is in this case, there needs to be zoning in place on that parcel". She suggested this would be appropriate to be zoned with a Public Facilities, and that other UPRR parcels could eventually be zoned PF.

Chair Lyle opened the public hearing.

As there were no persons present to speak to the matter, the public hearing was closed.

**COMMISSIONER MUELLER OFFERED A MOTION RECOMMENDING APPROVAL OF PRE-ZONING 1.56 ACRES (APN 817-06-053) FROM COUNTY EXCLUSIVE AGRICULTURE A-20 TO LIGHT INDUSTRIAL ML, AND PRE-ZONING 1.17 ACRES (APN 817-06-054) FROM COUNTY EXCLUSIVE AGRICULTURE A-20 TO PUBLIC FACILITIES PF, FOR APPLICATION ZA-05-23: CITY OF MORGAN HILL-TENNANT AND RAILROAD. COMMISSIONER DAVENPORT SECONDED THE MOTION.**

Commissioner Acevedo said he felt the need for a philosophical discussion as to whether or not the railroad parcels should have zoning? He stated a firm opinion that land along a railroad is like a shoulder of a road. "Why a parcel? Why zoning?" Commissioner Acevedo asked.

CDD Molloy Previsich advised that railroad companies are real estate owners and the object of that ownership is not industrial or residential. "In the event work were to be completed within the Public Facility zoning, a use permit would be required," she explained.

Commissioner Davenport noted that if the Public Facility is in the City and development were warranted, zoning would be in order.

Commissioner Acevedo reiterated several times his opinion that this would not constitute 'Public Facility' and compared it again to shoulders of roads/streets.

CDD Molloy Previsich clarified that streets are not parcels and therefore this is 'different'.

**THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: ACEVEDO; ABSTAIN: NONE; ABSENT: ESCOBAR.**

Commissioner Acevedo repeated his philosophical objections to the zoning of such areas.

**ZA-05-24: City of Morgan Hill-Monterey:** Island #14 is a 20.26-acre area containing 3 parcels located along Monterey Road near the terminus of Watsonville Road. The zoning amendment consists of rezoning only one of the parcels, 1.33 acres in size, currently in residential use, from its existing

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prezoning of Planned Unit Development–Light Industrial (PUD-ML), to the “RE-40,000” zoning district, consistent with its existing City General Plan designation of Residential Estate 0-1 units per acre. The other two parcels are already prezoned PUD-ML.

CDD Molloy Previsich advised this zoning amendment had been withdrawn, as the General Plan designates the residential parcel “Industrial”, and the PUD-ML pre-zoning should remain. However, she further advised that because the amendment had been noticed for public hearing, there might be members of the audience present to address the matter.

Chair Lyle opened the public hearing, and seeing none present to speak to the matter, he closed the public hearing.

**COMMISSIONERS MUELLER/BENICH MOTIONED TO RETAIN THE EXISTING ZONING FOR ZA-05-24: MONTEREY. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ESCOBAR WAS ABSENT.**

**ZA-05-32: City of Morgan Hill-US Hwy 101 & Condit:** Island #8 is a 62.34-acre area containing 4 parcels, of which two are already appropriately prezoned as Planned Unit Development-Commercial. The zoning amendment consists of prezoning the other 2 parcels, which include a Water District drainage channel (APN 728-17-008) and a City well site (APN 728-17-024), to the “PF Public Facilities” zoning district, consistent with the existing City General Plan designations.

CDD Molloy Previsich reported this to be a ‘clean-up item’, as the other two parcels in this island were prezoned in October 2005 to a PUD and at that time the City’s well site was inadvertently prezoned to that PUD zoning district as well. “It would be more appropriate to zone the well site to Public Facilities (PF),” CDD Molloy Previsich said. She went on to tell the Commissioners that the Water District drainage channel is designed Open Space and has no zoning. CDD Molloy Previsich suggested that the PF zoning could properly be applied to the channel as well.

Chair Lyle opened the public hearing.

No one was present to address the matter, and the public hearing was closed.

**COMMISSIONER MUELLER OFFERED A MOTION RECOMMENDING APPROVAL OF A ZONING AMENDMENT PREZONING 6.77 ACRES, FROM COUNTY EXCLUSIVE AGRICULTURE A-20 TO PUBLIC FACILITIES FOR APN 728-17-008, AND REZONING A .06-ACRE PARCEL FROM PLANNED UNIT DEVELOPMENT (PUD) TO PUBLIC FACILITIES PF, FOR APN 728-34-006 FOR APPLICATION ZA-05-32: CITY OF MORGAN HILL-US HIGHWAY 101 AND CONDIT. COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH PASSED BY THE**

**FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

**ZA-05-33: City of Morgan Hill-Condit & Murphy:** Island #11 is an 18.71-acre area consisting of 2 parcels, located along Condit Road, and bounded by San Pedro and Murphy Avenues. The zoning amendment consists of rezoning APNs 817-12-006 and -009 to the "CG General Commercial" zoning district, consistent with the existing City General Plan designation of Commercial.

CDD Molloy Previsich reported the two parcels total almost 19 acres and are currently vacant. She said lands to the north and west of the parcels are designated and zoned PUD Commercial. With that (CG) general commercial zoning this property could provide impetus for economic development. CDD Molloy Previsich stressed that staff was not suggesting a PUD overlay because of the location and the City did not want a lot of economic inhibitors to development.

Commissioner Benich clarified the location and asks about easements if future development were to occur. SP Linder responded that at the time of development, questions about easements, etc., would be considered.

Chair Lyle opened the public hearing, then observing no one to address the matter, he closed the public hearing.

**COMMISSIONER ACEVEDO OFFERED A MOTION RECOMMENDING APPROVAL OF A ZONING AMENDMENT PREZONING 18.85 ACRES, FROM COUNTY EXCLUSIVE AGRICULTURE A-20 TO GENERAL COMMERCIAL CG, FOR APNS 817-12-006 & 009 FOR APPLICATION ZA 05-33: CITY OF MORGAN HILL-CONDIT & MURPHY. COMMISSIONER MUELLER SECONDED THE MOTION, WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

Commissioner Mueller commented, "I've heard what staff said about a PUD for this, but we need to keep coordinated with PUD overlays." CDD Molloy Previsich advised the properties at the site are under common ownership presently. Commissioner Mueller noted that since there is easy access to the whole area at once, there is need for coordination attainable with a PUD.

**ZA-05-34: City of Morgan Hill-Dewitt:** Island #12 is a 2.00-acre parcel located at 16775 Dewitt Avenue, which is already developed with a residential use. The zoning amendment consists of rezoning the parcel to remove the "Residential Planned Development" zoning overlay district, so that the parcel is rezoned to the "Single-Family R-1/12,000" zoning district, consistent with the existing City General Plan designation of Single-Family



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Low 1-3 units per acre.

CDD Molloy Previsich presented the staff report, noting this is a small parcel shown as being under an RPD, but the R-1/12,000 could allow up to seven dwellings on the site. She spoke current effects of the RPD ordinance, which limits the site to 3 units.

Responding to a question from Chair Lyle, CDD Molloy Previsich said the properties to the immediate south were not in the Urban Service Area (USA).

Commissioner Acevedo inquired about the properties to the north of the subject property which had projects that had undergone Measure P competitions: were those project applications given points for lots 18 – 21? Commissioner Mueller addressed the question, saying, “No, because the applications were ‘piecemealed’,” and telling of prior negotiations which resulted in the property having three, not four units. Commissioner Mueller said he thought the property should stay part of the RPD, due to commitments made to the neighbors.

Discussion ensued regarding the road to the property.

It was noted that the current RPD limits the number of homes on this parcel.

CDD Molloy Previsich said there potentially could be a different configuration for the homes on the property.

Chair Lyle opened the public hearing, and then closed same due to the lack of speakers to the matter.

Commissioner Mueller said he liked the way the RPD is as it sets expectations and is good for the neighbors who had many concerns on Price Court. He added, “In view of the statements by CDD Molloy Previsich he could wiggle with it though”. Commissioner Mueller told of the possibility of pushing density toward John Telfer Drive, but stated he liked the expectations of three homes.

CDD Molloy Previsich discussed the responsibilities of the Architectural Review Board, noting that body ‘could do some modifications’. Commissioner Mueller suggested that if that were a course of action, the homes should be kept down toward Dewitt.

Commissioner Acevedo asked if, under the Measure P competition, lots 15, 16, and 17 had been approved for allocations? PM Rowe responded, “Yes, the project is under construction now.”

Chair Lyle referenced the RPD which had been selected for the overlay, and noted there were ‘certain kinds of layouts’, then asked, “Did we accept something without a road?” Commissioner Mueller clarified the location of the private drive off Dewitt which prohibited northbound traffic off Santa Teresa.

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Commissioner Mueller spoke in favor of leaving the RPD as it currently exists, saying, "We don't need a change."

**COMMISSIONER ACEVEDO OFFERED A MOTION RECOMMENDING APPROVAL OF A ZONING AMENDMENT REZONING 2.00 ACRES, FROM R-1 12,000/RESIDENTIAL PLANNED DEVELOPMENT TO R-1/12,000 FOR APN 773-08-016 FOR APPLICATION ZA-05-34: CITY OF MORGAN HILL-DEWITT. COMMISSIONER BENICH SECONDED THE MOTION, WHICH DID NOT PASS DUE TO THE UNANIMOUS "NOE" VOTES BY ALL OF THE COMMISSIONERS PRESENT; ESCOBAR WAS ABSENT.**

**COMMISSIONER MUELLER MOTIONED TO RETAIN THE EXISTING RPD WITH A ZONING OVERLAY OF R-1/12,000 ON APN 773-08-016. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

**ANNOUNCEMENTS:** None

**COMMISSIONER'S CONCERNS:**

Commissioner Benich reiterated concerns of the activities of CALTRANS at the gateways to the City: imposing a fence on businesses not in keeping with the General Plan. "We need to have an agenda item discussing what the Planning Commission can do - or ask the City Council to do - perhaps some other type of fence, but not just 'roll over on the matter'. He suggested having staff look into the matter and placing it on an oncoming agenda for discussion/possible action. Responding to a question, Commissioner Benich said the affected business was the In-N-Out Burger. Commissioner Acevedo said, "While staff is researching the matter, if it is found that the issue is moot, we also need to know that." Chair Lyle suggested that staff might also provide some other alternative for the Commissioners to present.

**ADJOURNMENT:**

Determining there was no further business to be undertaken at the meeting, Chair Lyle adjourned the meeting at 9:21 p.m.

**MINUTES PREPARED BY:**

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**JUDI H. JOHNSON, Minutes Clerk**

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